

January 5, 2009 - Regular Town Council Meeting

At a Regular Meeting of the Town Council of the Town of Middletown, RI, held at the Middletown Town Hall on Monday, January 5, 2009 at 6:00 P.M.

Council President Christopher T. Semonelli, Presiding

Vice Chairman Richard Cambra

Councillor Frank A. Bozyan

Councillor M. Theresa Santos

Councillor Barbara A. VonVillas, Members Present

Councillor Edward J. Silveira, Jr., Absent

Councillor Robert J. Sylvia

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to recess this meeting at 6:01P.M. and reconvene in executive session.

EXECUTIVE SESSION

Pursuant to provisions of RIGL, Sections 42-46-2., 42-46-4. and 42-46-5. (a) (2) litigation (Kempen vs. Town of Middletown) and (1) personnel (Fire Chief).

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to reconvene this meeting in open session at 7:00 P.M.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to approve the Fire Chief contract and authorize the Town Administrator to execute said contract.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to seal the minutes of the executive session pursuant to Section 42-46-7. RIGL.

Council President Semonelli requested a moment of silence for Middletown Police Officer Thomas Cabral and former State Senator Claiborne Pell.

CONSENT CALENDAR

- 1. Approval of Minutes – Special Meeting, December 15, 2008.**

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to approve said minutes.

- 2. Approval of Minutes – Regular Meeting, December 15, 2008.**

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to approve said minutes.

3. Memorandum of Town Administrator, with enclosure, re: School Committee Representation on Town Committees.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.

4. Communication of Town Administrator, with enclosures, re: Tax Collector's Report for period ending November 30, 2008.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication.

- 5. Communication of Town Administrator, with enclosures, re: Financial Statements for period ending November 30, 2008.**

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication.

TOWN COUNCIL

- 1. Resolution of the Council, re: Representative Bruce J. Long.**

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to pass said resolution, which was read and presented by Council President Semonelli to Representative Bruce J. Long.

- 2. Public Hearing (Advertised)**

An Ordinance of the Town of Middletown (First Reading)

An Ordinance in amendment to the Town Code of the Town of Middletown, Chapter 152 Zoning Code, Article 6 – Application of District Regulations, Section 602 – Schedule of District Regulations – Use Table 6-1, “Church or other place of worship”.

Public Hearing was declared open.

Councillor Santos questioned what constitutes a place of worship.

Town Solicitor Michael W. Miller, responding to Councillor Santos, noted a traditional church a group, an assembly or a grouping of people coming together.

Councillor Santos also questioned the issuance of liquor licensing which may not be 200’ away from a school or place of worship.

Responding to Councillor Santos, Town Solicitor Michael W. Miller noted when reviewing the liquor license laws, if an establishment serving liquor was there first, then the liquor license holder would take precedence.

There being no other persons present desiring to be heard on the matter, public hearing was declared closed.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said ordinance on its first reading.

3. Public Hearing (Advertised)

An Ordinance of the Town of Middletown (First Reading)

An Ordinance in amendment to the Town Code of the Town of Middletown, Chapter 152 Zoning Code, Article 4 – Definitions, Article

22 – Senior Independent Living Facilities.

Councillor Santos noted a letter received from Attorney Patrick O’N. Hayes, Jr. requesting to withdraw the amendment to change the 55 and older zoning condition.

Town Solicitor Michael W. Miller noted that Mr. Hayes has requested the proposed change be withdrawn. Mr. Miller explained that the ordinance as it presently exists does need to be reworked and recommends the ordinance be referred to the planning board.

Alice Curran, 429 Forest Avenue, addressed the Council expressing concern that East Coast Construction Company is using the Bay Ridge site for storage, heavy equipment is entering and exiting the site often. Mrs. Curran requests that the Town review the use of the Bay Ridge property.

Vice Chairman Cambra requested Town Administrator Shawn Brown

to investigate Mrs. Curran's concern of the Bay Ridge site being used for storage.

Bruce Long, 1 Winfield Court, noted that this situation is very disturbing. The Bay Ridge area should only be allowed the number of units permitted by right.

Art Benner, 3 Namquid Drive, addressed the Council noting he has followed this development from day one. Mr. Benner is concerned with the way the current ordinance is written and requests a reasonable way to rewrite the ordinance.

Roberta Duffy, 280 Forest Avenue, expressed concern of the time period spent creating the current ordinance and the area being considered a gated community.

Bruce Ryerson, 391 Forest Avenue, addressed the Council noting that the entire ordinance should be changed starting from page one. Mr.

Ryerson also expressed concern with the area currently being used as a storage site.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to refer this matter to the Planning Board for recommendation.

4. Memorandum of Town Planner, with enclosures, re: Proposed Zoning Ordinance amendment – Wind Energy Conversion Facilities.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum and refer this matter to the Planning Board for recommendation.

5. Memorandum of Arthur S. Weber, Jr., Chairman, Middletown Planning Board, with enclosures, re: Request for advisory recommendation on a proposal to amend the Middletown Zoning Ordinance Section 603 regarding dimensional regulations in the

Office Park (OP) zoning district. (Requires advertising for Public Hearing)

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum and the proposed amendment for hearing to be held at the February 17, 2009 regular meeting of the Council.

6. Resolution of the Council, re: Requesting General Assembly ratification of Town of Middletown Charter amendments approved by voters on November 4, 2008.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to pass said resolution.

7. (Continued from Regular Meeting, December 15, 2008)

Adoption of Proposed Standards for Professional Conduct For

Council Members.

Councillor Bozyan noted his opposition to the Adoption of Proposed Standards for Professional Conduct For Council Members. Mr. Bozyan is concerned the policy abridges free speech.

Councillor Santos noted her agreement with Mr. Bozyan. Ms. Santos believes everyone should police themselves.

Council President Semonelli noted his respect for all opinions for the subject, noting real civility can only be proven by actions. President Semonelli also noted the need for the new Council to continue to strive to work together.

Councillor VonVillas reviewed her statement from June 16, 2008 meeting, noting that the Council sets the tone for all and the Council must do all it can to conduct civilized meetings.

On motion of Vice Chairman Cambra, duly seconded, it was voted to adopt said Proposed Standards for Professional Conduct for Council Members; Councillors Bozyan and Santos voted NO to said motion.

8. (Continued from Regular Meeting, December 15, 2008)

Adoption of Civility and Mutual Respect Standards for the Conduct of Business in the Town of Middletown.

On motion of Vice Chairman Cambra, duly seconded, it was voted to adopt said Civility and Mutual Respect Standards for the Conduct of Business in the Town of Middletown; Councillors Bozyan and Santos voted NO to said motion.

9. Selection of a Substitute Solicitor for conflict matters. (NO DOCUMENTATION)

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to appoint J. Russell Jackson, Esquire as Substitute Solicitor for conflict matters with a term expiring November 2010.

10. Memorandum of Town Administrator, with enclosure, re: Proposed Aquidneck Island Council.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.

Council President Semonelli noted his support for the formation of the Aquidneck Island Council.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to participate in the Aquidneck Island Council committee; Council President Semonelli and Vice Chairman Cambra were appointed members to the Aquidneck Island Council Committee,

Council VonVillas was appointed alternate to said committee.

11. Request of Council President Semonelli, re: Oral Report from Audit Committee. (NO DOCUMENTATION)

Council President Semonelli reviewed the meeting of the Audit Committee, which met on December 29, 2008, noting that the meeting was very positive and the Town is in good financial standing.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said oral report from Audit Committee.

Councillor Santos requested that the chairman of each committee report to the Council quarterly to give an update from meetings including attendance by members and Council liaisons.

Councillor VonVillas noted she does not support policing people and is only interested in what is taking place at the meetings.

Councillor Bozyan noted his support for Councillor Santos' request.

Vice Chairman Cambra believes a policy for this request should be written and presented.

On motion of Councillor VonVillas, duly seconded, it was voted to table this discussion; Councillors Bozyan and Santos voted NO to said motion.

PUBLIC FORUM SESSION

Pursuant to Rule 23 of the Rules of the Council, Citizens may address the town on one (1) subject only, said subject of substantive Town business, neither discussed during the regular meeting nor related to

personnel or job performance. Citizens may speak for no longer than five (5) minutes and must submit a public participation form to the Council Clerk prior to the start of the meeting.

Art Benner, 3 Namquid Drive, suggested that when a committee is formed the appointed members receive staggered terms to eliminate all appointments expiring at the same time.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to adjourn this meeting at 8:12 P.M.

Wendy J.W. Marshall, CMC

Council Clerk